

**To:** Pellegrini, Janet[pellegrini.janet@epa.gov]  
**From:** Janet Pellegrini  
**Sent:** Wed 10/30/2013 3:03:11 PM  
**Subject:** Fw: Ohio American Energy-Bennoc

----- Forwarded by Janet Pellegrini/R5/USEPA/US on 10/30/2013 10:03 AM -----

From: "Nygaard, Eric" <eric.nygaard@epa.state.oh.us>  
To: Janet Pellegrini/R5/USEPA/US@EPA,  
Cc: "Goff, Bruce" <bruce.goff@epa.state.oh.us>  
Date: 01/04/2013 07:37 AM  
Subject: RE: FW: Ohio American Energy-Bennoc

---

This has to do with the magnitude, duration and frequency of exposure to TDS. Under the current configuration and wastewater characteristics, there is only so much that the company can probably do to reduce the magnitude of TDS being discharged. The 48-hour limitation is our attempt to limit the frequency and duration to periods of time that would not produce a chronic exposure. We have had some success with reducing exposure and reducing biological impact in the past. For example, in the Materion Brush (formerly Brush Wellman) permit, we tiered the loading limits to minimize exposure and prohibited discharges at stream flows near 7Q10. Under this restriction, there is no biological impact, even in the near-field, despite effluent TDS concentrations in the 9000-10,000 mg/l range. The effluent limits, even at these concentrations, meet the average TDS WLA. The near-field biological data show that the acute toxicity standards are met.

The idea in this permit is similar. We are trying to identify an exposure period that does not result in the reasonable potential to exceed the average TDS WQS. To do that, we looked at the exposure times of acute and chronic WET tests for macroinvertebrates. The standard acute toxicity test duration for bugs is 48 hours. Exposure times greater than 48 hours are chronic exposures; exposure times 48 hours or less are acute exposures. Therefore, if the biota are exposed for less than 48 hours in a 7-day period (the standard chronic test period) there should be no chronic toxicity, and no reasonable potential to exceed an average aquatic life standard based on toxicity.

Ohio has no acute toxicity standard for TDS. In the draft permit, we chose to regulate acute toxicity in the unnamed tributaries using the IL sulfate criteria. This is one choice. We could use an acute toxicity limit for Ceriodaphnia in place of the sulfate limit – an alternative that we are considering based on the company comments.

I think that the idea behind the exceptions is that the effluent should be more dilute under these circumstances. We would be interested in any data that you have on discharge quality during precipitation events.

**From:** Pellegrini.Janet@epamail.epa.gov [<mailto:Pellegrini.Janet@epamail.epa.gov>]  
**Sent:** Thursday, January 03, 2013 10:46 AM  
**To:** Nygaard, Eric  
**Subject:** Re: FW: Ohio American Energy-Bennoc

Eric,  
Thanks I received this file with an earlier email. This document contains a lot of the information we sought regarding the permit.  
It explains how AEC developed the draft TDS limit based on the high TDS levels in the PEQ, but I am still missing how OEPA determined that no TDS limits were necessary?

I saw the statement regarding the 48 hour discharge condition limiting the chronic exposure, but maybe you could elaborate or provide your calculations on that?

Since the permit also contains the exceptions to the 48 hour limit , how can chronic exposure be prevented? " ....7 day period, unless discharges outside this range are necessary as a result of precipitation that exceeds one inch of rainfall in a 7 day period or equivalent snowmelt."

Also the 4th bullet point on page 3, regarding influent flow monitoring, allows reporting any flow less than 10gpm into the pond, as 0 mgd, with only "but the ponds discharge outfall shall be observed at least once per week during this period." given as monitoring requirement.

There is no limit on flow rate or volume of discharge, how is this approach that includes exceptions to 48 hour limit, protective of water quality in place of numeric limits?

I also have our NPDES water quality expert reviewing the permit, when he submits his review we can schedule a call to discuss items.

Janet Pellegrini  
Environmental Scientist  
USEPA Region 5, Water Division, NPDES Branch  
77 West Jackson Blvd. #WN-16J  
Chicago, IL 60604-3590  
phone: (312) 886-4298  
fax: (312) 692-2436

▼ "Nygaard, Eric" ---01/03/2013 09:11:34 AM---Here are some other comments from OAE. Not much that we can do on these without changing a rule. D

From: "Nygaard, Eric" <[eric.nygaard@epa.state.oh.us](mailto:eric.nygaard@epa.state.oh.us)>  
To: Janet Pellegrini/R5/USEPA/US@EPA,  
Date: 01/03/2013 09:11 AM  
Subject: FW: Ohio American Energy-Bennoc

---

Here are some other comments from OAE. Not much that we can do on these without changing a rule. Do you have all of the information for your review?

**From:** Goff, Bruce  
**Sent:** Wednesday, January 02, 2013 10:22 AM  
**To:** Nygaard, Eric  
**Subject:** RE: Ohio American Energy-Bennoc

Eric:

Did you send the information in attached email to USEPA? This was their response to comments we had on the application. This included the updated WQ analysis by their consultant Dr. Walker regarding WQ in Piney Creek.

They sent in two hard copies of the information. I will bring one of the copies up to CO

tomorrow to give to you. The electronic submittal in attached has everything but the three (3) oversized drawings. If USEPA hasn't already rec'd this information from you maybe you can just forward them the attached email.

Bruce

**From:** Nygaard, Eric  
**Sent:** Wednesday, December 19, 2012 4:04 PM  
**To:** Goff, Bruce  
**Cc:** Elmaraghy, George; Campbell, Tim  
**Subject:** RE: Ohio American Energy

I will forward your files to Region V. Do you have the correspondence on WQBELs available? I'm particularly interested in the stuff Crellin sent showing that he met WQS for Piney Creek.

**From:** Goff, Bruce  
**Sent:** Wednesday, December 19, 2012 2:51 PM  
**To:** Nygaard, Eric  
**Cc:** Elmaraghy, George; Campbell, Tim  
**Subject:** RE: Ohio American Energy

Eric:

RE: Email below and attached.

The specific information they requested is basically the NPDES application. I assume they mean the information in 122.21(k) instead of 122.21 (g) since this is a new discharge.

CO should have a copy of the NPDES application and other supporting information. Per attached from Katrina, wasn't this sent to USEPA back on the 26<sup>th</sup>?? If that wasn't adequate why did it take USEPA all this time to ask for it again?

What does USEPA mean by the "we request the complete record of the permit Proceedings"? What proceedings? If they want a copy of the complete file record on this application, why not just ask for that? They need to be more specific. Let me know what they want and what you need for us. For example, there are many letter and email exchanges between me and AEC and email between me and you. Notes on meeting, etc. Lots of stuff. Why does USEPA need all of this to see if the permit meets the CWA and USEPA rules???

Regarding the other request. No public comments have been rec'd except for AEC's comments. Are these "public comments"? You should have a copy of AEC's comments to send on to them

I'm going to let AEC know to not plan on getting any decision on the NPDES and any

response to their comments for several more weeks, maybe even months?

Bruce

**From:** Elmaraghy, George  
**Sent:** Wednesday, December 19, 2012 2:11 PM  
**To:** Campbell, Tim; Goff, Bruce  
**Subject:** FW: Ohio American Energy

**From:** [Pierard.Kevin@epamail.epa.gov](mailto:Pierard.Kevin@epamail.epa.gov) [<mailto:Pierard.Kevin@epamail.epa.gov>]  
**Sent:** Wednesday, December 19, 2012 2:05 PM  
**To:** Elmaraghy, George  
**Subject:** Ohio American Energy

Hi George - We just sent the attached letter to you but wanted to assure you got a heads up. We are continuing our review but will need more information to complete the review. If you have any questions please give me a call. thanks (*See attached file: OEA Letter 12-19-12.pdf*)

----- Message from "Goff, Bruce" <[bruce.goff@epa.state.oh.us](mailto:bruce.goff@epa.state.oh.us)> on Mon, 17 Sep 2012 14:49:05 +0000 -----

**To:** "Nygaard, Eric" <[eric.nygaard@epa.state.oh.us](mailto:eric.nygaard@epa.state.oh.us)>

**cc:** "Novak, Paul" <[Paul.Novak@epa.state.oh.us](mailto:Paul.Novak@epa.state.oh.us)>, "Campbell, Tim" <[Tim.Campbell@epa.state.oh.us](mailto:Tim.Campbell@epa.state.oh.us)>

**Subject:** FW: Bennoc Coarse Coal Refuse Area NPDES OIL00159 Comments

Eric and Paul:

Attached is AEC's response to several questions/comments we had on their NPDES application for the discharges from their new coarse refuse disposal area. I didn't review their responses yet.

As you may recall, the discharges will have high conc. of sulfate and TDS. Discharges are to two very small unnamed tribs. that provide no dilution. One option was to allow them to account for increased flow in the main stem creek resulting from precipitation and model the discharges as if they were directly to the main stem Piney Fork and

assuming the refuse area treatment ponds will only discharge as a result of precipitation which in turn will result in more dilution flow in Piney Creek.

This doesn't work if we apply WQS to the two small tribs.

They are claiming the two small tribs. have no significant "biological value". I don't think we have a regulatory mechanism to deal with this in a timely manner, i.e. reclassify the tribs to LRW. Even if classified as LRW, we still have the issue of acute sulfate and chloride WQS applying to LRW.

We've had the permit application for several months now and they are probably very anxious to get the permit iss'd (assuming we can issue it).

Let me know your thoughts and recommended next course of action.

Bruce

**From:** Nagel, Jon [<mailto:jnagel@coalsource.com>]  
**Sent:** Saturday, September 15, 2012 9:51 AM  
**To:** Goff, Bruce  
**Cc:** Van Bever, Chris; Witt, Jason; Turner, James; Scott, Crellin  
**Subject:** Bennoc Coarse Coal Refuse Area NPDES OIL00159 Comments

Mr. Goff,

Please find the attached document containing our responses to your and Mr. Nygaard's comments, and supporting information. This response packet will contain 2 copies of each of its enclosures, and will be mailed to your office.

We look forward to your review and decision on this permit.

Thank you for your time and cooperation.

Sincerely,

**Jon M. Nagel**

*Coordinator of Environmental Compliance*

**Murray Energy Corporation**

46226 National Road  
St. Clairsville, OH 43950

Cell - (740) 213-1688  
Office - (740) 338-3100

CONFIDENTIAL COMMUNICATION: The information contained in this e-mail may be confidential information and is intended for the sole use of the intended recipient. Any use, distribution, transmittal or re-transmittal of information contained in this e-mail by persons who are not intended recipients may be a violation of law and is strictly prohibited. If you are not the intended recipient, please contact the sender and delete all copies.

[attachment "OEPA\_AEC\_Bennoc 402 Comment Packet COMPLETE\_09152012.pdf" deleted by Janet Pellegrini/R5/USEPA/US]